



How to appeal an SEN Decision – A guide for parents

The aim of the guide is to help you through the appeal process in the First-tier Tribunal Special Educational Needs and Disability (SEND).

SEND is part of the system of courts and tribunals which makes decisions in appeals and claims.

SEND hears cases which involve:

- appeals against decisions of local authorities about children with special educational needs; and
- claims of disability discrimination by a school against a child (please see the “How to make a claim” booklet for more information).

The guide explains what is involved in making an appeal to SEND, step by step.

The staff who administer appeals are called ‘tribunal clerks’. They will handle letters, emails and phone calls and deal with any questions. However, they cannot give legal advice.

Using the guide

The guide is quite long, because it provides detailed information on each of the stages in the appeals process. It can be used as a manual, checking each step as the appeal progresses, or as a reference, to look up issues as they arise.

At the end of the guide is the appeal form which is completed and sent to SEND to start an appeal.

Contact

SEND's contact details are:

By phone: 01325 289350

By fax: 0870 739 4017

By email: SENDISTQUERIES@hmcts.gsi.gov.uk

In writing to:

First-tier Tribunal Special Educational Needs and Disability

1st Floor, Darlington Magistrates Court

Parkgate

Darlington DL1 1RU

Section 1 – Making an appeal

When can I appeal?

The deadline for making appeals is two months from the date of the letter from the local authority giving their final written decision. You must send the appeal so that it is received by SEND within two months of the date of the letter. If you want to appeal after the two months deadline, if the circumstances are exceptional you can apply to extend the time.

Even after an appeal has been made, the parents and the LA should continue to try to reach agreement by discussing the case.

What can I appeal?

You can appeal if the local authority:

- refuses to arrange a statutory assessment of the child's special educational needs, following a request by the parents or school;
- refuses to make a statement of the child's special educational needs, after a statutory assessment;
- refuses to arrange a reassessment of the child's special educational needs (following a request by the parent or child's school) if the local authority has not made a new assessment for at least six months;
- decides to stop maintaining the child's statement;
- where the statement has not been changed for at least 12 months, refuses to change the school named and you are seeking to name an academy school or a school that is funded by a local authority. (This is limited to the same type of school as already described in Part 4 and it is not possible to change parts 2 or 3);
- decides not to amend the statement following an annual review;
- decides not to change the statement after reassessing the child; or
- has made a statement, or has changed a previous statement, and you disagree with one or all of the following.
 - The part which describes the child's special educational needs (part 2).
 - The part which sets out the special educational provision (help) (part 3) that the LA thinks the child should receive.
 - The school or type of school named in part 4 of the statement.
 - The local authority not naming a school in part 4.

Are there any issues SEND cannot decide?

SEND cannot deal with a case if the issue is:

- the way the local authority carried out the assessment, or the length of time that it took;
- how the local authority or the school is arranging to provide the help set out in the child's statement;
- the way the school is meeting your child's needs at School Action or School Action Plus;
- the information in parts 5 and 6 of the statement about the child's non-educational needs or how the local authority plans to meet those needs; or
- where you have asked for a change to part 4 in a statement that was at least a year old and had not been amended for at least 12 months and the local authority refused to name an independent school or non-maintained school or a different type of school (for example, a special school when your child currently goes to a mainstream school or the other way around).

In terms of the last bullet point, you would first need to ask your local authority to amend the statement at annual review or if that is not for some time, ask the local authority to arrange a reassessment of the child's needs and then appeal if they refused that reassessment, or if you were still not satisfied at some later point in the process of changing the statement.

- Depending on the circumstances, SEND may not be able to consider an appeal if your child is over 16 and not on the roll of a school, or is going to a further- or higher-education college.
- Admissions appeals
- Exclusion appeals unless it involves an allegation of disability discrimination

Who deals with the issues SEND cannot determine?

You should discuss your concerns with the child's school or the local authority. If you are still not happy, you can complain to the Secretary of State for Education. If he agrees with your complaint, he may ask the school or the local authority to take action to put things right. You can get a guidance booklet from:

DfE Publications Centre
PO Box 5050
Sherwood Park
Annesley
Nottingham NG15 0DG

Phone: 0845 60 222 60

You may also be able to complain to the Local Government Ombudsman. You can get guidance on this by contacting the LGO Advice Team on 0845 602 1938 or by writing to:

Local Government Ombudsman PO Box 4771, Coventry, CV4 0EH

You can also visit their website: www.lgo.org.uk

Should I appeal?

The guide deals with how to appeal. It cannot advise on the strength of your case. Tribunal clerks can help with phone queries about the appeal as it goes through the process, but cannot give an opinion about whether the appeal is likely to win or lose, or whether or not a particular step should be taken.

What about mediation?

Before making an appeal you may wish to consider mediation as an alternative way of resolving your dispute. Local authorities must have in place independent disagreement resolution services to deal with disputes between parents and schools/local authorities in relation to special educational need disputes. If you have a mediation meeting and no agreement is reached, you can pursue your appeal to a hearing, and the tribunal panel will not know about the discussions that took place.

Can I get advice about whether I can appeal?

The local authority should have told you about the following groups that may be able to give you advice.

- A local parent partnership service
- A voluntary organisation which helps people with special needs
- A parents' group
- An independent parental supporter
- National Advice Organisations

The local authority should also have told you about its named officer who can work with you to try and sort out the issues in the appeal.

Can I get help if I decide to make an appeal?

The groups above and the local authority officer may be able to put you in touch with an independent supporter or a representative.

You may be entitled to public funding (Legal Aid) in preparing your appeal. A solicitor will be able to advise you on whether you are entitled to this. The Law Society or your local Citizens Advice Bureau (CAB) will be able to give you the names of organisations who offer public funding and are experienced in education matters. Public funding for a lawyer to represent you at the hearing is only available if the circumstances are exceptional.

What is likely to be involved?

SEND's service is free. Unlike going to court, there are no fees involved. A contribution can be made towards any out-of-pocket expenses you incur from attending the tribunal hearing, such as travel costs.

From start to finish, the process of making an appeal can take up to five months depending on the type of case. Usually, there will only be one hearing where you need to visit the tribunal. Hearings normally start at either 10am or 2pm. Occasionally, in a complicated case, it may need to be adjourned to another day for SEND to hear all the necessary evidence.

Preparing the appeal may involve you in gathering evidence to support your case.

Section 2 – Starting an appeal

Are there time limits for making the appeal?

SEND must receive the appeal within two months of the date on the letter from the local authority giving you their final decision.

If you miss the deadline, a Tribunal Judge may extend the time for making the appeal but you must ask for the extension by:

- sending SEND your completed appeal form as soon as possible; and
- explaining why the appeal is late giving full reasons for the delay and
- explaining why you consider the appeal will be successful and should go ahead even if late;
- explaining why the local authority will not be prejudiced by the late appeal;
- explaining why you should not have to wait for an annual review or ask for another assessment;
- drawing attention to any other matters that you think are relevant.

The Tribunal Judge may allow an extension if there are special circumstances which prevented the appeal being made in time and it is fair and just to do so.

If the Tribunal Judge allows the extension, the appeal will go ahead. If the judge refuses an extension, the appeal will go no further.

There is a right of appeal to the Upper Tribunal against a decision not to extend time, but it can only be made with permission on the ground of an error of law.

What are the grounds of appeal?

You must identify the decision appealed and give the date of the local authority letter giving you the decision.

You must give the reasons for the appeal. These are the 'grounds of appeal'. The reasons don't have to be lengthy or written in legal language, but need to say more than just, 'I disagree'. Explain why you disagree with the decision and what you would like SEND to do.

If you have information or evidence supporting the appeal, enclose it with the appeal.

The appeal form

What does SEND need on the appeal form?

- Section 1 Your child – asks for details of the child.
- Section 2 What are you appealing against – this is important because this is where you explain why you are appealing.
- Section 3 Your appeal – asks for information about the Local Authority decision
- Section 4 Your contact details – asks for your details and the contact details of any representative that you may have
- Section 5 Special Requirements – asks if you have any special needs in terms of the appeal documentation and the hearing.
- Section 6 Claims about disability discrimination – asks whether you have an existing disability discrimination claim or if you would like further information about how to make a claim.
- Section 7 Checklist. Go through the list and tick the boxes to make sure that you have provided all the necessary information.
- Section 8 Signatures – all parties to the appeal must sign the appeal form. Without signatures, SEND cannot accept the appeal.
- Section 9 Sending the appeal – explains where to send the completed appeal form.

What if I don't send all the right information or documents?

The tribunal clerks may have to contact you about getting the information or documents to SEND. If SEND does not have the right papers to register the appeal, the appeal form and supporting papers will be returned to you with a list of what else SEND requires. The letter from SEND will give you 10 working days to send them. If they are received within that time, it will not be necessary to ask for an extension. If they arrive any later than the date you were given, it will be necessary to apply for an extension of time, explain why they are late and why you believe your appeal will succeed.

In some cases an appeal can be registered even if SEND does not have all the documents. If that happens, SEND will ask you to provide the missing documents within 10 working days. If they are not received within that time, the appeal may be struck out. The appeal will then be at an end.

Do I have to send original documents?

No. Only send photocopied documents and keep the original documents yourself.

Please ensure that all documents which you provide to SEND are single sided.

Do I have to send the appeal myself?

No, but you must sign the appeal form yourself, unless your legal representative signs it for you. If the appeal is made jointly with another person, both of you must sign the form. Please be aware that SEND will only provide information about the appeal to one person named on the appeal form. The choice is yours (see the form). If none of the boxes are ticked, the information will be sent to the first named person.

If you have a representative and you want them to receive all the letters and papers for the appeal on your behalf, you should give their name and address on the form. A legally qualified representative may sign the form on your behalf if you have given them permission to do so. If you say on the form that your representative is going to receive all the papers, you will not receive any correspondence in connection with the appeal before the hearing. Instead, SEND will send it all to the representative. You must let SEND know in writing if you decide to stop using your representative or if the details of your representative change.

What if I have any other needs?

Please make sure that you give details of any special needs on the appeal form.

For example, if you need a signer or an interpreter at the hearing, or any special arrangements to be made to enable you to attend the hearing.

Section 3 – The process up to the tribunal hearing

What happens after I send you my appeal?

The appeal will be registered within 10 working days of receipt. SEND will tell you that the appeal has been registered and the date of the final hearing of the appeal. The appeal number should be used whenever you contact SEND about your appeal.

When the appeal is registered, case directions, an attendance form and a case management questionnaire are issued. The directions will set dates by which you must take action and send the local authority and SEND information which will be considered at the hearing. It will also set a date by which you need to tell the local authority and SEND about the witnesses (if any) that you will bring and anyone else you want to come to the hearing.

When the appeal has been registered, a copy is sent to the local authority, who are also issued with directions setting out the time limits for sending documents, sending the attendance form and case management questionnaire.

What will the local authority do about my appeal?

The local authority must respond within 30 working days of a copy of the appeal notice being sent. They will send a copy of their response and any accompanying documents to you and to SEND. If you do not receive the response within eight weeks of your appeal being registered, you should notify SEND in writing.

The local authority will have the same timetable to send further information and evidence as is set out in your directions. The response must say whether or not they oppose the appeal and, if they do, they need to explain why. They should provide a summary of the facts and tell SEND what the child thinks about the issues in the appeal. Local authorities are required by SEND to provide children's views on the issues in the appeal wherever possible, or an explanation why they have not been provided. They may also contact you about the appeal, as they may have looked at the evidence again and feel that they can provide some or all of what you want.

The local authority may also apply to strike out (bring to an end) your appeal if they believe it is a case that the Tribunal cannot consider. If that happens, the Tribunal will send you a copy of the local authority's application and ask for your written comments, giving you the opportunity to explain why you think your appeal should continue.

What happens if the local authority does not oppose the appeal?

This will depend on the issues in your appeal. If the local authority agrees to change the contents of the statement and you are satisfied with the outcome, you can withdraw the appeal or ask the Tribunal to order the local authority to change the statement in the way you have agreed by making a consent order.

If the appeal is about a decision not to assess or reassess, not to issue a statement, not to change the school named in a statement that is over one year old or to no longer maintain a statement, and the local authority does not oppose it, the appeal will automatically come to an end. The local authority will have to do what they have agreed to do within a fixed time limit.

What if the local authority does not provide a response?

If the local authority does not send a response by the end of the time in which they have to reply, SEND can do a number of things, including barring them from taking further part in the appeal. Before deciding what to do, SEND will write to the local authority asking for an explanation for their failure to respond, or failure to respond in time. A tribunal judge will consider any reply the local authority gives and will decide what should happen. If the local authority is barred from further involvement, SEND will decide whether your case can be dealt with on the papers or whether there should be a hearing, which the local authority would not attend.

Before the hearing

Can I send in any more documents?

You should try to send in all your documents with the appeal. The case directions will set out if and when you can send other documents. You must send copies of all documents to the local authority at the same time as you send them to the Tribunal.

You should NOT copy SEND into every email and correspondence exchange that you have with the other party. Think carefully about the information and documents that you want included in the tribunal bundle and bear in mind that anything you send will be provided to the tribunal panel.

Can I bring new evidence to the hearing?

As a general rule all the documents must be produced before the hearing. You should not normally bring new evidence to the hearing. In exceptional circumstances, SEND will consider late evidence on the day of the hearing if you have already provided a copy to the local authority and can provide a good reason for the delay.

Evidence provided to SEND after the final evidence date will be returned to you. If you want to bring additional evidence on the day, you should bring 5 copies for the tribunal panel and other party.

What if the local authority has more evidence?

The same rule applies to the local authority.

What if I find it difficult to get hold of a document that is important to my case?

SEND has power to order the production of a document. If you apply well before the hearing using the request for changes form, an order may be made directing the local authority or anyone else who may have relevant information to release it. If the local authority objects to releasing the information a judge will consider the objections and then decide whether or not to order the local authority to release the document. You will be able to comment on the local authority's objections before a decision is made. You may also be able to ask someone who is not directly involved in the appeal to release a document they have. That organisation could be the NHS or social care.

Requests for changes

You can ask the tribunal to make an order for documents to be provided or for other directions, if you are unable to agree them with the other party at any time before the hearing. If you want to ask the tribunal to make an order, you should complete the "Request for changes" form explaining what you are asking the tribunal to do, and explaining why you

want it done, and send a copy to the local authority and to the Tribunal. The request will be considered by a Registrar or Tribunal Judge and an order will be issued and sent to you and the local authority. You can get a form by phoning the tribunal clerks or by visiting our website, at www.justice.gov.uk.

Can I change my appeal?

Once the appeal has been registered, SEND must agree to any changes to the grounds of appeal. A request must be made in writing on the "Request for changes" form. On the form, set out the changes you want to make and explain the reasons for asking for the amendments and send a copy of the form to the local authority and to the Tribunal.

What is a telephone case management hearing?

Sometimes, if there is an issue that a party has raised that is not easily resolved on the papers, a Registrar or Tribunal Judge will direct for a telephone case management hearing to be arranged.

This is a hearing that takes place by means of a conference call where the Tribunal Judge, the local authority representative and you or your representative (or both of you) will be able to discuss the case over the phone. You will be provided with a telephone number and an explanation of what you should do to join the hearing. Telephone hearings usually last between 20 and 30 minutes, and the Tribunal Judge will either give you a decision immediately or reserve the decision. In all telephone hearings, the orders made will be confirmed in writing within a few days.

Can I withdraw my appeal?

The appeal can be withdrawn with SEND's agreement. If you inform SEND that you want to withdraw, permission will usually be given if it is more than three weeks before the hearing. The application to withdraw must be made on the request for changes form and explain why you wish to withdraw.

If you want to withdraw less than 15 working days before the hearing, you need to make the application in writing on the request for changes form setting out the reasons why you are withdrawing so close to the hearing. A tribunal judge will consider the request and decide what further action, if any, is required. You may need to take part in a telephone conference to explain why you want to withdraw.

A request to withdraw the appeal very near to the date of the hearing may be refused and both parties required to attend before a judge to explain the reasons for the late settlement of the appeal.

What will happen to my appeal if I move to live in another local authority area?

You must inform SEND immediately if you move house. If you move to another area, SEND will then contact the new local authority to tell them about the appeal. The new local authority may be substituted as a party to the appeal as if they had made the decision. Your appeal will be against them, unless there are good reasons why they should not take over the appeal. If the case is transferred to the new local authority, there will be a new timetable for supplying evidence. The old local authority will take no further part in the appeal.

What is a working document?

A working document is a copy of the final statement, on which both parties have worked to show the changes to the wording that they want or can agree, as well as those issues which the Tribunal must decide on the day of the final hearing.

The working document is provided to SEND in advance of the hearing so that the tribunal panel is aware of the detailed wording in dispute. Sometimes, the options preferred by the two parties are brief and immediately clear to the reader. On other occasions the issues are more complex and/or lengthy and the working document may be confusing unless the document is carefully drafted.

How will I know the place for the hearing?

At least 10 working days before the hearing, you will receive a full copy of the appeal bundle and details of the time and hearing venue. Sometimes your hearing may be postponed at short notice due to a lack of tribunal time, but you will be notified of this at least 48 hours before the scheduled start of the hearing.

Sometimes, it is necessary to change the venue for the hearing at short-notice. We will do our best to notify you of any change of venue at least 48 hours before the hearing.

What is Active Case Management?

About three weeks before the final hearing, you and the local authority may get separate telephone calls from a Registrar asking you about any issues arising from your completed case management questionnaire. The call will be quite informal, and will ask you about your witnesses, working document or any other matter noted from your case management questionnaire or the fact that you have not submitted it. The purpose of the call is to make sure that the appeal is ready for hearing and is likely to be effective on the day.

Section 4 - The hearing

A film explaining what happens at a hearing is available on YouTube (type 'special educational needs tribunal hearing' in the search box). A DVD is available to give you some idea of what happens at a hearing. You can ask SEND for a copy of the DVD.

Where will my hearing be held?

Appeal hearings are held at Tribunals buildings and in family court rooms as close as possible to your home. SEND aims to limit travel to no more than one-and-a half hours in each direction.

What time will my hearing start and how long will it last?

Hearings are fixed to start usually at 10am but some start at 2pm. Please arrive 30 minutes before the hearing time so that you can meet the tribunal clerk, familiarise yourself with the arrangements and ask any questions. The length of your hearing will depend on the issues in the appeal and the number of witnesses coming to the hearing. Sometimes where the appeal is very complex, it may be necessary to adjourn the case to another day so that the tribunal panel can hear all the relevant evidence.

Who will hear my appeal?

The appeal will be heard by a tribunal panel consisting of: a legally qualified tribunal judge, who will be the chair, and depending on the type of appeal, up to two specialist members who have been appointed because of their knowledge and experience of children with special educational needs and/or disabilities.

Do I have to come to the hearing?

You do not have to come to the hearing but it is helpful if you do. The panel will want to hear anything you have to say and you may want to ask questions of the local authority and any witnesses they may bring. If you do not come, the questions may not be asked on your behalf.

The appeal can, however, be considered on the papers if both parties agree. If you consider that your appeal is suitable for a paper hearing, where neither of the parties attend, then you can tick the box on the notice of appeal form and if both parties consent to a paper hearing, the appeal will be placed for consideration by the first available panel after the final evidence date and your appeal may be decided sooner than if it goes to an oral hearing.

Can I have a representative at the hearing?

You can have a representative at the hearing whether or not you attend yourself. If you are represented, you must let us know on the attendance form sent to you on registration of the appeal.

A solicitor or a barrister may represent you but public funding (or Legal Aid) is not available unless the circumstances are exceptional.

Can both parents come to the hearing?

Yes, anyone who is a parent of the child, even if they have not appealed, may come to the hearing. Where a parent who is separated from the other makes an appeal, they should notify the other parent of the appeal.

If, for some reason, you do not want the other parent to come to the hearing, you must tell SEND why not by completing a request for changes form, explaining the reasons for the objection. A tribunal judge may agree to limit that person's involvement in the case.

Can the child come to the hearing?

Yes, the child can come to the hearing and can give evidence, if they want to. However, bear in mind that it is unlikely that the child will stay for the full hearing and you must arrange for someone to look after the child when they are not in the hearing. The tribunal clerk will not be able to look after your child and it is unlikely that there will be a child-friendly place for them and their carer to use in the building.

Can I bring anyone else to support me during my hearing?

Yes, you can bring another person with you for support but they will not be able to take part in the hearing, and the attendance form must show who they will be. If you think that you want more than one supporter, you must make a request on the request form. SEND has power to exclude any person from the hearing. As it is a private hearing, no-one other than supporters can attend. If your representative is training someone on the tribunal process, they may be allowed to come as long as they make a request in writing at least 10 working days before the hearing. They will not be allowed to take part in the hearing.

At the start of the hearing, the tribunal judge who chairs the hearing will explain to the parties the procedure to be followed during the course of the hearing.

Can the appeal be heard earlier than the date set?

If you and the local authority agree, then the appeal could be listed for an earlier hearing, if you contact SEND to confirm the position. If you know that all of your evidence is available as soon as the local authority's response is received, and your witnesses are available at short notice, then you can, if the local authority agrees, ask for the appeal to be heard at 10 working days' notice.

Witnesses

Do I need to say if I am bringing witnesses?

Yes, you must inform SEND on the attendance form who you will be bringing with you. If the information is not provided, SEND may prevent your witness from taking part in the hearing or even being in the room where the hearing is held.

IF YOU DO NOT COMPLETE THE ATTENDANCE FORM IDENTIFYING WHO WILL ATTEND THE HEARING YOUR APPEAL MAY BE STRUCK OUT.

If you change your witnesses, you should tell SEND and the local authority immediately.

You do not have to bring any witnesses at all but if you do want to, you are normally allowed to bring no more than three to the hearing. This is because SEND aims to conclude every hearing within a day and that the focus is on only the relevant issues. Often a report by a professional who has assessed your child will contain all the information you want us to consider and it may not be necessary for that person to come to the hearing as well.

If you want to bring more than three witnesses, you will need to ask permission in writing on the request form. SEND has power to limit the number of witnesses.

What if a witness refuses to come to the hearing?

If you have asked someone and they are unhappy about coming to the hearing and have refused to attend, you can ask SEND to issue a witness summons to require them to attend. You should complete a request for changes form, explaining why you feel it is important they be there, why their evidence cannot be provided in written format without their having to attend. You will need to explain why they cannot give their evidence through a witness statement or report, and why it is necessary for them to attend. SEND must receive your request at least 15 working days before the hearing.

If the tribunal judge agrees to the request, a witness summons will be issued for you to give to the person. That person will then have to come to the hearing unless there are very good reasons why they cannot.

Will I be able to ask my own questions?

Yes, you will have the chance to ask questions of the local authority, their witnesses and also add anything you feel is important but has not been mentioned.

What will happen at the hearing?

SEND hearings are a legal process, but try to be as informal as circumstances allow. When you are shown into the hearing room, you will sit at a table facing the tribunal panel. At the start of the hearing, the Tribunal Judge will give an introduction, explain the procedures to be followed during the course of the hearing and a list of the issues to be considered during the hearing. The parties will be asked to introduce themselves.

The tribunal panel will consider the appeal on an issue by issue basis and you will be invited to give your view and your evidence about each issue in turn. If you have additional issues that you want to raise, which are relevant to the appeal and which haven't already been discussed, you will be given an opportunity to raise these before the end of the hearing.

When all of the issues have been covered, you may be invited by the Tribunal Judge to make some brief closing comments summarising your appeal. You do not have to do this if you consider that all of the relevant issues have been discussed and if you choose to do so, you should keep your comments brief. It is intended to be a chance to summarise your position at the end of the hearing, in light of any changes brought about by the evidence heard.

What expenses can I claim?

You and your witnesses can claim travel expenses to attend the hearing. If you bring a friend or a relative to look after your child, you will be able to claim their travel expenses as well.

You should use public transport where possible (bus, tram, standard-class rail travel). If you travel by car, you can claim a fixed amount for mileage. SEND will only pay for taxi fares if public transport is not available, or if you have particular needs (you must tell SEND about these before making your claim for expenses). If you require use of a taxi, please contact SEND on 01325 392760 or sendistqueries@hmcts.gsi.gov.uk to get authorisation.

Your witnesses can also claim a fixed amount for loss of earnings.

Details about claiming expenses will be included with the notification of the arrangements for your hearing. At the hearing, the clerk will give you the relevant forms to fill in and return. SEND will then either post the expenses or put them straight into your account.

Section 5 - After the hearing

How do I get the decision?

You should receive the decision and reasons by post within 10 working days of the hearing. The decision is sent to the nominated contact and the local authority.

How soon will the decision be put into practice?

Once SEND's decision is issued, the local authority must carry out the order within a fixed period, beginning with that date.

- To start the assessment or reassessment process – four weeks
- To make a statement – five weeks
- To change a statement – five weeks
- To change the school named in line with parents' wishes – two weeks
- To continue a statement – immediately
- To cancel (no longer maintain) a statement – immediately

Some of these timescales also apply when the local authority tells SEND they do not oppose the appeal. If the local authority does not keep to the order within that time, you may have to apply to the Secretary of State for Education or the High Court to enforce it. You can also make a complaint to the Local Government Ombudsman by contacting the LGO Advice Team on 0845 602 1938 or by writing to:

Local Government Ombudsman
PO Box 4771
Coventry CV4 0EH

You can also visit their website: www.lgo.org.uk

What can I do if I am not happy about the decision?

When the decision is issued, it will include a leaflet setting out in detail your right of appeal. The following is a brief outline of your options.

When you have received a decision, you may think that the decision is wrong in law or that there is another reason why SEND should look again at the decision. If you think it is wrong in law, you can appeal to the Administrative Appeals Chamber of the Upper Tribunal but you must first ask for permission to appeal.

Guidance explaining how to make an application for permission to appeal against the decision and other applications that you can make following the decision is included with the decision.

Who can make an application?

You can make an application if you have been involved in an appeal or claim before the First-tier Tribunal in a special educational needs or disability discrimination case. This includes if you are a parent, or person with parental responsibility, a local authority or a responsible body for a school.

What applications can I make?

Following a decision of the First-tier Tribunal, you can make the following applications.

- You can apply for permission to appeal if you think that the decision was wrong in law.
- You can ask SEND to review the decision because there has been a change of relevant circumstances since the decision was made.
- You can ask for the decision to be set aside in certain circumstances.

The three applications are explained in detail in the guidance sent with your decision.

When can I make an application?

You must make an application so that it is received by SEND no more than 28 calendar days from the date on the letter sent with the decision.

If you are applying more than 28 calendar days after the decision is sent, you will need to apply for an extension, giving the reasons why the application is late. If a tribunal judge does not agree to extend the time, your application will not be considered.

List of useful addresses

ACE Education
36 Nicholay Road
London
N19 3EZ

Phone: 020 8407 5142
Website: www.ace-ed.org.uk

AFASIC
20 Bowling Green Lane
London
EC1R 0BD

Phone: 0845 355 5577
Website: www.afasic.org.uk

British Deaf Association
18 Leather Lane
London
EC1N 7SU

Phone: 020 7843 6000
Website: www.bda.org.uk

British Dyslexia Association
Unit 8, Bracknell Beeches
Old Bracknell Lane
Bracknell, RG12 7RW

Phone: 0845 251 9002
Website: bdadyslexia.org.uk

Coram Children's Legal Centre
University of Essex
Wivenhoe Park
Colchester, CO4 3SQ

Phone: 08088 020 008
Website:
www.childrenslegalcentre.com

Council for Disabled Children
National Childrens Bureau
9 Wakley Street
London
EC1V 1JN

Phone: 020 7843 6000
Website: www.ncb.org.uk

Council on Tribunals
81 Chancery Lane
London, WC2A 1BQ

Phone: 020 7855 5200
Website:
www.council-on-tribunals.gov.uk

Department for Education
Sanctuary Buildings
Great Smith Street
London SW1P 3BT

Phone: 0370 000 2288
Website:
www.education.gov.uk

DIAL UK
39-45 Cavell Street
London
E1 2BP

Phone: 020 7791 9000

Website: www.dlf.org.uk

Equality & Human Rights Commission
Fleetbank House,
2-6 Salisbury Square,
London EC4Y 8JX

Phone: 0800 800 0082

Website:

www.equalityhumanrights.com

Down's Syndrome Association
Langdon Down Centre
2a Langdon Park, Teddington
Middlesex TW11 9PS

Phone: 0333 1212 300

Website: www.down-syndrome.org.uk

Haemophilia Society
1st Floor, Petershaw House
57a Hatton Gardens
London EC1N 8JG

Phone: 0800 018 6068

Website: www.haemophilia.org.uk

Helen Arkell Dyslexia Centre
Arkell Lane
Frensham, Farnham
Surrey GU10 3BW

Phone: 01252 792 400

Website: www.arkellcentre.org.uk

I CAN
8 Wakely Street
London EC1V 7QE

Phone: 020 7843

Website: www.ican.org.uk

IPSEA
Hunters Court, Debden Road
Saffron Walden CB11 4AA

Phone: 0845 602 9579

Website: www.ipsea.org.uk

KIDS
49 Mecklenburgh Square
London WC1N 2NY

Phone: 020 7520 0405

Website: www.kids.org.uk

Mencap
123 Golden Lane
London, EC1Y 0RT

Phone: 0808 808 1111

Website: www.mencap.org.uk

MIND
15-19 Broadway
Stratford
London E15 4BQ

Phone: 0300 123 3393

Website: www.mind.org.uk

National Autistic Society
393 City Road
London, EC1V 1NG

Phone: 0808 800 4104

Website: www.nas.org.uk

National Blind Children's Society
Bradbury House
Market Street, Highbridge,
Somerset, TA9 3BW

Phone: 01278 765 765
Website: www.nbcs.org.uk

National Deaf Children's Society
15 Dufferin Street
London EC1Y 8UR

Phone: 0808 800 8880
Website: www.ndcs.org.uk

National Parent Partnership
8 Wakley Street
London EC1V 7QE

Phone: 0207 843 6058
Website: www.parentpartnership.org.uk

National Sensory Integration Partnership
(NatSIP)

Website: www.natsip.org.uk

National Society for Epilepsy
Chesham Lane
Chalfont St Peter
Buckinghamshire SL9 0RJ

Phone: 01494 601300
Website: www.epilepsysociety.org.uk

Network 81
10 Boleyn Way
West Clacton
Essex, CO15 2NJ

Phone: 0845 077 4055
Website: www.network81.co.uk

Parents for Inclusion
336 Brixton Road
London, SW9 7AA

Phone: 0800 652 3145
Website: www.parentsforinclusion.org

Royal Association for Disability and
Rehabilitation (RADAR)
12 City Forum, 250 City Road
London, EC1Y 8AF

Phone: 020 7250 3222
Website: www.radar.org.uk

Royal National Institute for the Blind
105 Judd Street
London, WC1H 9NE

Phone: 0303 123 9999
Website: www.rnib.org.uk

Scope
6 Market Place
London
N7 9PW

Phone: 0808 800 3333
Website: www.scope.org.uk

Sense
101 Pentonville Road
London, N1 9LG

Phone: 0845 127 0060
Website: www.sense.org.uk

Glossary of terms for SEN Guidance Booklet

Annual review: the review of the contents of a statement of special educational needs which the LA must make within 12 months of making the statement or as the case may be of the previous review.

Academy: is a type of school that is independent of Local Education Authority control but is publicly funded, with some private sponsorship.

Alternative Provision [AP]: education arranged by local authorities for pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education; education arranged by schools for pupils on a fixed period exclusion; and pupils being directed by schools to off-site provision to improve their behaviour.

Bundle: all of the documents submitted in the appeal will be issued back to the parties and the tribunal panel in one bundle marked into sections to identify the parents' evidence the LA's evidence, requests, directions and orders and any late evidence submitted in the appeal. The bundle is numbered so that everyone at the hearing will have the same set of documents and references.

Carer: the Code of Practice makes references to a carer as the person who is named by a local authority to care for a child for whom the social services department has parental responsibility ie a child who is the subject of a care order or who has been placed in a residential or foster placement. The carer may qualify as a parent for purposes of the Education Acts because they have care of the child (see definition of parent) if so they will have a role to play in the consideration of a child's special educational needs.

Case management: is a process where specific cases are looked at by a tribunal judge on the papers supplied by the parents and the Local Authority. After this process an order may be issued asking either the parent or the Local Authority to send in further information.

Clerk: A clerk is one of the administration members of staff within the tribunal service. A clerk is not legally qualified and is only able to deal with general queries.

Code of Practice: The Code of Practice for Special Educational Needs is not statutory in content but is guidance that is approved by parliament and was last revised in 2001. The LA must have regard to the Code in making all of its decisions, as must the Tribunal when considering an appeal.

Decision: Final document which is produced by the tribunal judge and members following the final hearing. This document will set out the final decision and sets out what the Local Authority are to do.

Directions: An order by a tribunal judge/registrar which parents and the Local Authority must comply with. It sets out further deadlines for specific information from either party of the appeal.

Independent School: a school that is not maintained by a local education authority and is registered under section 464 of the Education Act 1996. Section 347 of the Education Act 1996 sets out the conditions under which an independent school may be approved by the Secretary of State as being suitable for the admission of children with statement of special educational needs.

Individual Education Plan[IEP]: the IEP is a planning, teaching and reviewing tool. It is a working document for all teaching staff recording key short-term targets and strategies for an individual pupil that are different from or additional to those in place for the rest of the group or class.

Learning Support Assistant [LSA]: a term for describing an assistant providing in school support for pupils with special educational needs and/or disabilities. An LSA can be dedicated support for one pupils or pupils providing close support to the individual pupil and assistance to those responsible for teaching him/her. Some assistants specialising in SEN may also be known by titles other than LSA as decided locally. Some LAs distinguish between LSAs and TAs Teaching assistants. Those with additional qualifications and paid at a higher grade are designated HLTAs Higher Level Teaching Assistants.

Local authority: the local government body responsible for identifying and assessing the child's needs. This will usually be the local authority for the area in which the child lives, but may be another authority if the child is in care or foster care. The relevant authority can change if the child's home changes to another local authority area.

Maintained School: any community foundation voluntary or community special or foundation special schools are maintained by the local authority.

Note in Lieu: where the LA decides after arranging an assessment of the child's needs that it is not necessary to issue a statement, it may decide to issue a note in lieu, broadly following the form of a statement, describing the child's special educational needs, explaining why the LA does not consider it necessary to make a statement and making recommendations about appropriate provision for the child. The advice received during the assessment should be attached to the note sent to the parents and with their consent should also be sent to the child's school. A Note in Lieu does not have the same legal status as a statement and the provision recommended in it cannot be legally enforced by the parents.

Non-maintained special school: Schools in England approved by the Secretary of State under section 342 of the Education Act 1996 as special schools which are not maintained by the local authority but charge fees on a non-profit making basis. Most non-maintained special schools are run by major charities or charitable trusts.

Occupational therapy: the use of purposeful activity and play to help a child attain maximum levels of functional performance thus gaining self-esteem and independence. Motor, sensory, perceptual, social, emotional and self-care skills are assessed. Working with the child, parents and teachers, occupational therapists use therapeutic techniques (advising on equipment and environment adaptations where appropriate) to improve a child's ability to access the physical and learning curriculum.

OfSTED: Office for Standards in Education: a non-ministerial government department established under the Education (Schools) Act 1992 to take responsibility for the inspection of all schools in England. Her Majesty's Inspectors (HMI) forms their professional arm.

Parent Partnership Services: Funded by local authorities, the remit of parent partnership services can vary widely depending on local arrangements. Their role is to provide neutral and factual support on all aspects of the SEN framework to help parents play an active and informed role in their child's education. Although funded by the local education authority they provide a service to parents and are often either run at arms length from the LEA or by a voluntary organisation to ensure parents have confidence in them.

Permanent venue/venue: This is the venue which you will be attending for your final hearing. Permanent venue means that it is one of our venues which we hold hearings at on a weekly basis.

Phase/Secondary transfer: This is when your child is due to move from a primary school to secondary school.

Physiotherapy: the use of physical approaches in the promotion, maintenance and restoration of an individual's physical psychological and social well being.

Pupil Referral Unit [PRU]: any school established and maintained by a local authority under section 19(2) of the Education Act 1996 which is specially organised to provide education for pupils who would not otherwise receive suitable education because of illness exclusion or any other reason. Further details are given in DfEE Circular 11/99 Chapter 6.

Requests: an application to ask for something which you require or wish to change.

School Action: is used when there is evidence that a child is not making progress at school and there is a need for action to be taken to meet learning difficulties. SA can include the involvement of extra teachers and may also require the use of different learning materials, special equipment or a different teaching strategy.

School Action Plus[SA+]: is used where SA has not been able to help the child make adequate progress. At SA+ the school will seek external advice from the LEA's support services, the local Health Authority or from Social Services.

SEN Co-ordinator [SENCo]: A SENCO is responsible for the day-to-day operation of the school's SEN policy. All mainstream schools must appoint a teacher to be their SENCO.

Special educational needs: the child's difficulties and areas of weakness which prevents them from learning.

Special educational provision: the educational provision that a child requires that is additional to and different from that received by other children to enable them to learn.

Speech and language therapy (SALT): Speech and language therapists (SLTs) are allied health professionals. They work closely with parents, carers and other professionals, such as teachers, nurses, occupational therapists and doctors. There are around 13,000 practising SLTs in the UK

Statutory assessment: A statutory assessment is a detailed investigation to find out what your child's special educational needs are and what provision is needed to meet those needs. An assessment is the step before a statement of special educational needs (often known simply as 'a statement'), but doesn't always lead to a statement being written.

Telephone case management hearing [tcmh]: Is a telephone call which takes place between the parent/parent representative, Local Authority representative and also the Tribunal Judge.

Upper Tribunal: is part of the administrative justice system of the UK. It was created in 2008 as part of a programme, set out in the Tribunals, Courts and Enforcement Act 2007, to rationalise the tribunal system, and to provide a common means of handling appeals against the decisions of lower tribunals. It is administered by Her Majesty's Courts and Tribunals Service.